

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL MEMORANDUM

SB 631 – HB 1616

April 21, 2009

SUMMARY OF AMENDMENT (006384): Deletes the first undesignated subsection of the original bill. Declares any publicly funded project to be in the best interest of the public. As a result, when the Department of Environment and Conservation (TDEC) must make a finding concerning social and economic necessity to justify degradation of an Exceptional Tennessee Water, the burden of proof current law places upon an applicant to prove that such a degradation is necessary would be placed upon the opponent to provide clear and convincing evidence that the degradation is not necessary.

FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact – According to TDEC removal of such waters from the Exceptional Tennessee Waters list and shifting the burden of proof for publicly-funded projects would place the State in violation of federal rule 40 CFR 131 and statute CWA 303. Such a violation would jeopardize \$2,000,000 in federal funding to the State and could potentially result in the Environmental Protection Agency promulgating its own water quality standards for the State.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumption applied to amendment:

- The provisions of the bill will not change the number of days the Water Quality Control Board is required to meet annually to make determinations concerning projects impacted by the shift in the burden of proof for publicly-funded projects.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is written in a cursive style with a large initial "J" and a distinct "W".

James W. White, Executive Director

/cce